

(2014) 07 P&H CK 0802

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 13909 of 2014 (O&M)

Union of India

APPELLANT

Vs

Vidhu Shekhar Pandey

RESPONDENT

Date of Decision: July 21, 2014

Hon'ble Judges: Hemant Gupta, J; Fateh Deep Singh, J

Bench: Division Bench

Advocate: Arvind Seth, Advocate for the Appellant

Final Decision: Dismissed

Judgement

Hemant Gupta, J.

The challenge in the present writ petition is to an order passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short "the Tribunal") on 11.12.2013 whereby an Original Application filed by respondent No. 1-Vidhu Shekhar Pandey, hereinafter referred to as the applicant, was allowed so as to direct the counting of the service rendered by the applicant with the present writ petitioner to be counted towards the pensionary benefits in Central Scientific Instruments Organization (for short "CSIO").

2. The Tribunal held that the applicant has applied for this post before entry into service with the present petitioner. The learned Tribunal found that the applicant informed about his selection to the post of Scientist Grade-IV in CSIO while submitting his resignation through proper channel on 03.05.2004. It was, thereafter, he was relieved from his duties on 19.06.2004 and joined CSIO on 21.06.2004. Therefore, the objections raised by the petitioners that the applicant has not applied for the post of Scientist Grade-IV through proper channel cannot be accepted. Therefore, it was held that his past service is qualified to be counted for all intent and purposes.

3. Learned counsel for the petitioner relies upon Clause 10 of Swamy's-Complete Manual on Establishment and Administration and Swamy's-Pension Compilation

attached with the original application as Annexure A-45 which reads as under:-

Resignation, Removal and Dismissal

Resignation

[Swamy's-Complete Manual on Establishment and Administration and Swamy's-Pension Compilation]

xx xx xx xx

10. When a Government servant applies for post in the same or another department through proper channel and on selection he is asked to resign the previous post for administrative reasons-

- (i) the resignation will be treated as a "technical formality";
- (ii) the benefit of past service, if otherwise admissible under the rules, will be allowed for purposes of fixation of pay in the new post;
- (iii) leave at credit will be carried forward; and
- (iv) the past service will be counted for pension to the same extent it would, but for the resignation, only in respect of employees appointed on or before 31-12-2003.

A Government servant who had applied for a post elsewhere before joining Government service, should intimate the details of such application as soon as he joins Government service to qualify for the above benefits.

4. Learned counsel for the petitioner could not clarify as to whether the above extract is part of the Rules or Instructions or that which Authority has issued. But still, we have examined the matter and find that the present writ petition is wholly untenable. It is admitted that the applicant joined the services of the petitioner on 06.10.2003 but before that in the year 2002, he applied for an appointment as Scientist Grade-IV with CSIO in the year 2002. The applicant submitted resignation on 03.05.2004 which was accepted on 19.06.2004.

5. The argument of learned counsel for the petitioner is that the applicant has not informed the present petitioner of his submitting an application to CSIO soon after his joining the services of the petitioner. We find that argument is wholly misconceived. There is no time limit mentioned in the compilation, the extract of which has been reproduced above. We find that in fact, the applicant has informed the present petitioner soon after his joining the petitioner. The applicant joined services of the petitioner on 06.10.2003 and has resigned on 03.05.2004 i.e. in about 7 months. He has hardly worked for seven months before he submitted his resignation informing his appointment with CSIO and resigned to join the said Organization.

6. We find that resisting the claim of the applicant firstly before the Tribunal and subsequently by way of the present writ petition shows total non-application of mind and typical bureaucratic red tape attitude.

7. Consequently, we dismiss the present writ petition with costs of Rs. 10,000/- to be paid to the applicant within two months.